

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7486

BILL NUMBER: HB 1654

NOTE PREPARED: Jan 9, 2005

BILL AMENDED:

SUBJECT: Farmland Preservation.

FIRST AUTHOR: Rep. Lehe

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
☒ **FEDERAL**

IMPACT: State & Local

STATE IMPACT	FY 2005	FY 2006	FY 2007
State Revenues			
State Expenditures		(5,000,000)	
Net Increase (Decrease)		(5,000,000)	

Summary of Legislation: This bill has the following provisions:

(A) The bill creates the farmland protection program administered by the Land Resources Council. The bill establishes the amount of damages that apply when protected farmland is condemned under eminent domain.

(B) The bill creates the farmland protection program account, and appropriates **\$5,000,000** to the account from the state General Fund.

(C) The bill establishes county farmland protection funds.

(D) The bill allows a county to impose an additional County Economic Development Income Tax (CEDIT) rate of 0.1% for farmland protection, and requires deposit of the tax revenue in the fund.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (A) Farmland Protection Program Establishment: Under the bill, the Farmland Protection Program would be created. The program would be administered by the Indiana Land Resources Council. The Council's administrative responsibilities would increase under this proposal. The Council would be charged to administer the Farmland Protection Program Account. Under the bill, the expense to maintain the Account would be paid from the Account.

Land Resources Council (LRC)- The LRC is currently staffed and administered by the Commissioner of Agriculture. The Council currently consists of nine members plus the Commissioner. Operations of the LRC are conducted by two staff members. The LRC received a General Fund appropriation of \$150,633 in FY 2005.

Program Description: Owners of land in the program would be given priority for state grants or technical assistance by the Commissioner or the Department of Commerce. Land classified under the program would be deemed "protected farmland. Were protected farmland to be condemned, the owner would receive as compensation, 200% of the fair market value of the land or an award rendered by a court. This premium would not apply if condemnation were for a highway, road, street, or right-of-way.

Under the proposal, the Council, working with local agencies, would be required to establish criteria for "designated areas" on a county by county basis. It would also establish criteria for evaluating applications for the program including requirements that the farmland:

1. Is in a designated area.
2. Has been in production or in a conservation program for at least five years.
3. Is composed of at least 35 acres of working land with not more than one residence.

The criteria may give preference to land that is part of certain other agricultural programs. Larger tracts of land would also be given priority. Inclusion in the program would require a minimum score on a points system that would include standards on soil erosion, conservation plans, landowner participation, and management plans.

Several provisions of the bill would disqualify a landowner from participation in the program:

1. Consistent lack of compliance with environmental permits and requirements.
2. Division of large land parcels in attempt qualify both parcels for separate grants.
3. Termination of a conservation easement. (Under the bill, a landowner would have to be subject to a conservation easement for a period of at least ten years to participate in the program.)

If a conservation easement by a program participant were terminated before the minimum ten years passed, the land and landowner would be disqualified from program participation for ten years after the date the easement was terminated.

(B) Under the bill, the Farmland Protection Program Account in the state General Fund would be created to provide matching funds for the purchase of conservation easements through the federal Farm and Ranch Lands Protection Program (7 CFR Part 1941). The non-reverting account would include revenue from:

1. Appropriations from the General Assembly;
2. Gifts and bequests; and
3. Grants.

Appropriation: Under the bill, an appropriation would be made by the General Assembly of **\$5 M** from the state General Fund in FY 2006 to the Farmland Protection Program Account of the state General Fund.

(D) The bill would require the Department of State Revenue to take into account ordinances sent to the Department from counties that were to adopt an additional CEDIT rate for farmland protection purposes. The Department would be required to revise a county's certified distribution for a year immediately following an adoption date after May 31, of the prior year. (The rate would not be effective until January 1, of the following year.) This provision would give almost one additional year to those counties that were to adopt after May 31, of a given year to collect the additional revenue generated by a 0.1% rate before their biannual distribution is received in November, of the year following adoption. It would also give time for the Budget Agency to certify a distribution on actual collections from the increased rate. (Note: Under current law, CEDIT certified distributions are allocated biannually in May and November.)

The Department and Budget Agency would see an increase in administrative time to carry out the provisions of the bill.

Explanation of State Revenues:

Explanation of Local Expenditures: **(C)** Under the bill, each county would establish a county farmland protection fund. The county auditor would be required to administer the fund. The auditor would likely require additional administrative time to carry out this provision.

The county funds would consist of the following revenue sources:

1. Amounts deposited under the CEDIT provision of the bill;
2. Appropriations made by the General Assembly;
3. Gifts and bequests; and
4. Grants.

Money in the fund would only be used to pay for the expenses of the county farmland protection program including cost for comprehensive planning of the program.

(D) Under the bill, if a county council adopts an ordinance to increase the CEDIT rate of the county for farm protection uses, the county auditor would be required to send a certified copy of the ordinance to the Department of State Revenue.

Explanation of Local Revenues: **(C)** As described above, county farmland protection funds would be able to receive revenue from General Assembly appropriations, CEDIT revenue, gifts, bequests and grants.

(D) Under the bill, CEDIT counties would be allowed to increase their tax rate by up to 0.1% for farmland protection initiatives as specified in the bill. Any additional revenue generated under the additional 0.1% for farmland protection would not be allowed to be considered by the Department of Local Government Finance in the determination of a county's ad valorem property tax levy for an ensuing calendar year.

CEDIT Revenue Estimate: The impact to local revenue would depend upon the local action of county councils. This analysis assumes that **all** current CEDIT counties and those counties that currently do not impose CEDIT would adopt the 0.1% rate for farmland protection, under the bill. **A 0.1% CEDIT would generate**

approximately \$108.2 M in CY 2007 (the first complete year of revenue.) The estimate is a **total statewide impact** as a result of the bill and is based on the average growth rates of the countywide income tax base from 1996-2002. The analysis also assumes that all counties would adopt CEDIT at a 0.1% rate as soon as possible under the language of the bill.

CEDIT Rate Increase Effective Dates: If an ordinance were adopted before June 1, in a year, the rate increase would be effective July 1, of the same year. If an ordinance were adopted after May 31, the rate increase would be effective January 1, in the year following the year of adoption.

CEDIT + COIT or CAGIT: Under the bill, the additional 0.1% CEDIT rate, would not count against a county's combined CEDIT/COIT or CEDIT/CAGIT rate cap. Counties would be able to exceed their maximum combined rate, as allowed under current law, to adopt an ordinance for the additional 0.1% CEDIT rate for farmland protection.

Background CEDIT: Under current law, CEDIT rates may be set at 0.1%, 0.2%, 0.25%, 0.3%, 0.35%, 0.4%, 0.45%, and 0.5%.

Under current law, a county must adopt a rate increase in CEDIT by April 1 of a given year. In July of that year, the State Budget Agency calculates a certified distribution for the following year. (Counties do not receive any additional certified shares until January of the year following the rate increase and certified distribution.)

(Current law allows, with few exceptions, a maximum combined CEDIT and COIT rate of 1.0%. Current law allows, with few exceptions, a maximum combined CEDIT and CAGIT rate of 1.25%.)

There are currently 71 counties that have adopted CEDIT. Certified distributions for all adopting counties totaled \$197 M in CY 2005.

State Agencies Affected: Commissioner of Agriculture; Indiana Land Resources Council; Department of Commerce; Department of Local Government Finance; Department of State Revenue; State Budget Agency.

Local Agencies Affected: Counties.

Information Sources: State Budget Agency, BUDSTARS; *Indiana Handbook of Taxes, Revenues, and Appropriations*.

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